

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

AARON D. SEYMOUR,

Plaintiff,

v.

LEDBETTER,

Defendant.

Case No.: 1:22-cv-00989-JLT-CDB (PC)

**ORDER TO SHOW CAUSE IN WRITING  
WHY SANCTIONS SHOULD NOT BE  
IMPOSED FOR PLAINTIFF'S FAILURE  
TO FILE AN OPPOSITION OR  
STATEMENT OF NON-OPPOSITION**

**14-DAY DEADLINE**

Plaintiff Aaron D. Seymour is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Ledbetter for violations of Plaintiff's First and Eighth Amendment rights.

**I. INTRODUCTION**

On January 16, 2024, the Court issued its Discovery and Scheduling Order. (Doc. 35.)

On November 25, 2024, Defendant filed a motion for summary judgment challenging the merits of Plaintiff's claims. (Doc. 36.) Defendant's motion included a *Rand*<sup>1</sup> warning (Doc. 36-2), specifically addressing the requirements concerning an opposition to a motion for summary judgment. Despite the passage of more than 21 days, Plaintiff has failed to file an opposition or statement of non-opposition to Defendant's summary judgment motion.

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<sup>1</sup> *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998).

1           **II.     DISCUSSION**

2           Rule 56 of the Federal Rules of Civil Procedure concerns summary judgment. It provides,  
3 in relevant part:

4                     **Failure to Properly Support or Address a Fact.** If a party fails to  
5 properly support an assertion of fact or fails to properly address  
6 another party’s assertion of fact as required by Rule 56(c), the court  
may:

- 7                     (1) give an opportunity to properly support or address the fact;  
8                     (2) consider the fact undisputed for purposes of the motion;  
9                     (3) grant summary judgment if the motion and supporting  
10 materials—including the facts considered undisputed—show  
that the movant is entitled to it; or  
11                     (4) issue any other appropriate order.

12 Fed. R. Civ. P. 56(e). This Court’s Local Rules, corresponding with Federal Rule of Civil  
13 Procedure 11, provide that a “[f]ailure of counsel or of a party to comply with these Rules or with  
14 any order of the Court may be grounds for the imposition by the Court of any and all sanctions  
15 authorized by statute or Rule or within the inherent power of the Court.” *See* Local Rule 110.

16 Further, Local Rule 230 states:

17                     Opposition, if any, to the granting of a motion shall be served and  
18 filed by the responding party not more than twenty-one (21) days  
19 after the date of service of the motion. A responding party who has  
no opposition to the granting of the motion shall serve and file a  
20 statement to that effect, specifically designating the motion in  
question. Failure of the responding party to file an opposition or  
21 statement of no opposition may be deemed a waiver of any  
opposition to the granting of the motion and may result in the  
imposition of sanctions.

22 Local Rule 230(l). Therefore, Plaintiff’s opposition or statement of non-opposition to Defendant’s  
23 pending motion for summary judgment was due on or before December 16, 2024, plus time for  
24 mailing. Plaintiff has failed to timely file an opposition or statement of non-opposition, and the  
25 time to do so has now passed.

26           **III.     CONCLUSION AND ORDER**

27           Accordingly, the Court **ORDERS** Plaintiff to show cause in writing, **within 14 days** of  
28 the date of service of this order, why sanctions should not be imposed for his failure to comply

1 with the Local Rules. Alternatively, within that same time, Plaintiff may file an opposition or  
2 statement of non-opposition to Defendant's motion for summary judgment filed November 25,  
3 2024.

4 **Any failure by Plaintiff to timely respond to this Order may result in a**  
5 **recommendation that this action be dismissed for a failure to obey court orders and a**  
6 **failure to prosecute.**

7 IT IS SO ORDERED.

8 Dated: **December 27, 2024**

  
UNITED STATES MAGISTRATE JUDGE